



STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
AIR POLLUTION CONTROL DIVISION

**NOTICE TO REVIEWERS OF MATERIALS IN THIS PUBLIC DEPOSITORY**

The information contained in this package of materials is part of formal rulemaking procedures by the State of Tennessee and includes proposed revisions to Chapter 1200-3-9 of the Tennessee Air Pollution Control Regulations; a report prepared by the Air Committee of the Business Environmental Strategic Taskforce (BEST); and Federal Register documents dated December 31, 2002, March 10, 2003, and November 7, 2003.

The Federal Register documents outline federal revisions to the New Source Review Regulations of the Clean Air Act and Tennessee's obligations to the federal government with respect to that program and the federal regulations noted above. Tennessee's formal response to the federal government is due on or before January 2, 2006. The proposed rule was prepared based on Tennessee's existing New Source Review regulations and the enclosed federal rulemaking, and in consideration of the points of agreement reached by the BEST air committee. Essentially, this proposed rule differs from the federal rulemaking as follows:

1. The definition of "baseline actual emissions" was changed to remove the provision allowing different consecutive 24-month periods for different pollutants.
2. Hazardous air pollutants were specifically added to the environmentally beneficial analysis requirement for Pollution Control Projects (PCP's).
3. The Technical Secretary is given the authority to deny the PCP exclusion to a listed project if evidence is available that the proposed project does not meet the requirements of the environmentally beneficial analysis and air quality analysis.
4. If a pollution control project will cause a significant net increase of a pollutant for which the area in which the project will be located is non-attainment or significantly impacts a non-attainment area for that pollutant, the owner or operator must obtain offsets for emissions of that pollutant.

In addition, some parts of this proposed rule have been revised to reflect other changes made to the federal regulations but not yet adopted by Tennessee. This proposed rule does NOT address changes to the federal regulations concerning the routine maintenance, repair, and replacement provisions that were stayed by the United States Court of Appeals for the District of Columbia Circuit. More information on the administrative stay can be obtained from the July 1, 2004 Federal Register notice.

The Business and Environmental Strategic Taskforce was established in the fall of 2003 in order to encourage open discussion of environmental issues in Tennessee. BEST membership is open

to all interested parties and includes both business and environmental stakeholders. The BEST Air Committee met over a period of several months to discuss the federal New Source Review revisions and make recommendations to the Department based on these discussions. You are encouraged to read the BEST report included with this package and offer any comments on the proposed Tennessee rule that you may have of your own. The procedure and deadline to make comments appears at the end of this cover sheet. A summary of the main areas of disagreement among members of the BEST Air Committee is attached to this document.

This package also includes proposed changes to rules 1200-3-11-.01 and 1200-3-18-.01. Proposed changes to these rules include additions to the list of compounds that are not considered to be volatile organic compounds.

The first public hearing to receive public comments concerning these proposed rules will take place in Room 1A of the Development Resource Center located at 1250 Market Street, Chattanooga, TN on February 22, 2005, at 9:30 a.m. The second hearing will take place in the auditorium of the Knox County Health Department, 140 Dameron Ave, Knoxville, TN on February 22, 2005, at 6:30 p.m. The third hearing will take place in Room B of the West Tenn. Agriculture Experiment Station, 605 Airways Blvd, Jackson, TN on February 24, 2005, at 6:30 p.m. The fourth hearing will take place in the auditorium of the Fleming Training Center, 2022 Blanton Drive, Murfreesboro, TN on February 28, 2005, at 6:30 p.m. Written comments will be included in the hearing records if received by the close of business on March 11, 2005 at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531. If you have any questions about these proposed rule changes, you may contact Lacey Hardin at 615-532-0545.

## **BEST Areas of Disagreement**

- **CLEAN UNITS**
  - Point of contention - A source can qualify for Clean Unit status on the basis of controls that have been certified as BACT or LAER or on the basis of controls that are deemed “comparable to” BACT or LAER.
    - Environmental Community
      - A source should qualify for Clean Unit status on the basis of controls that have been certified as BACT or LAER.
    - Industry
      - It is clear how to demonstrate that a unit’s control technology is comparable to or substantially as effective as BACT or LAER. “Comparable to” should remain in the language.
- **BASELINE ACTUAL EMISSIONS**
  - Point of Contention – Look-Back Period
    - Environmental Community
      - The long look-back period (24 consecutive months in the past 10 years) may be used to inflate the baseline above current actual emissions, allowing projects to evade NSR.
      - The current TN rule (former federal rule, 2-year period immediately preceding the change) is adequate since the source owner/operator can demonstrate that another period is a more representative baseline.
      - Willing to discuss alternatives
        - An average ton/year emission rate over the 10-year period.
        - Any two consecutive years during the past 5 years, with additional 5-year discretion with TDEC approval.
    - Industry
      - Strongly supports the new federal rule.
      - Prefers to average emissions during any consecutive 12-month (rather than 24-months) period during the previous 10 years.
      - It is often difficult and time-consuming to demonstrate that another 2-year period is more representative.
- **ACTUAL-TO-PROJECTED-ACTUAL TEST**
  - Point of Contention – Demand Growth Exclusion
    - Environmental Community
      - The exclusion is inappropriate in that it will allow unit emissions to increase.
      - Any significant increases in emissions should require imposition of BACT or LAER controls.
      - The exclusion will allow units that should impose controls to argue that they are merely experiencing demand growth.

- Industry
    - The exclusion is absolutely necessary, appropriate, and required by the language of the statute.
    - The abundant monitoring and record-keeping requirements currently in place make determining demand growth emissions fairly straightforward.
- PLANTWIDE APPLICABILITY LIMITS (PALs)
  - Point of Contention – Baseline emissions as previously discussed
  - Point of Contention – “Bad Actor” exclusion
    - Not included in the federal rule.
    - Environmental Community
      - Regulated entities with a history of violations should not be allowed to utilize this provision.
    - Industry
      - Strongly objects to including such a provision.
        - Bad actors are unlikely to use PAL’s
        - The record-keeping requirements will allow the State to monitor compliance with the PAL and take appropriate enforcement action, including revocation of the PAL.
        - It will be very difficult to define “bad actors,” as the term is not addressed in either set of rules.
        - Should be addressed in another context from the rules.
  - Point of Contention – Declining Emissions Caps
    - Environmental Community
      - Valuable and justified in non-attainment areas
      - Emission caps in PAL’s should be established at levels representative of historic actual levels.
    - Industry
      - The State should decide how non-attainment areas achieve air quality goals on an area-by-area basis in the SIP, and that there should not be automatic declining caps in PAL’s.